

117TH CONGRESS  
1ST SESSION

# S. 2871

To establish a task force on the implications of amending the Atomic Energy Act of 1954 to remove exemptions from environmental laws for spent nuclear fuel and high-level radioactive waste to allow for consent-based siting of geologic repositories.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2021

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To establish a task force on the implications of amending the Atomic Energy Act of 1954 to remove exemptions from environmental laws for spent nuclear fuel and high-level radioactive waste to allow for consent-based siting of geologic repositories.

1       *Be it enacted by the Senate and House of Representa-  
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Nuclear Waste Task  
5 Force Act of 2021”.

6 **SEC. 2. TASK FORCE.**

7       (a) DEFINITIONS.—In this section:

## 1                   (1) ENVIRONMENTAL JUSTICE COMMUNITY.—

2     The term “environmental justice community” means  
3     a community with a significant representation of  
4     communities of color, low-income communities, or  
5     Tribal and indigenous communities that experiences,  
6     or is at risk of experiencing, higher or more adverse  
7     human health or environmental effects, as compared  
8     to other communities.

9                   (2) EPA REPRESENTATIVE.—The term “EPA  
10    representative” means the member of the Task  
11    Force appointed under subsection (c)(2)(B)(i).

12                  (3) HIGH-LEVEL RADIOACTIVE WASTE.—The  
13    term “high-level radioactive waste” has the meaning  
14    given the term in section 2 of the Nuclear Waste  
15    Policy Act of 1982 (42 U.S.C. 10101).

16                  (4) INDIAN TRIBE.—The term “Indian Tribe”  
17    means an Indian tribe included on the list published  
18    by the Secretary of the Interior under section 104  
19    of the Federally Recognized Indian Tribe List Act of  
20    1994 (25 U.S.C. 5131).

21                  (5) SPENT NUCLEAR FUEL.—The term “spent  
22    nuclear fuel” has the meaning given the term in sec-  
23    tion 2 of the Nuclear Waste Policy Act of 1982 (42  
24    U.S.C. 10101).

1                         (6) TASK FORCE.—The term “Task Force”  
2       means the task force established under subsection  
3       (b).

4                         (b) ESTABLISHMENT.—The Administrator of the En-  
5       vironmental Protection Agency shall establish a task force,  
6       to be known as “Task Force on the Implications of  
7       Amending the Atomic Energy Act of 1954 to Remove Ex-  
8       emptions from Environmental Laws for Spent Nuclear  
9       Fuel And High-Level Radioactive Waste to Allow for Con-  
10      sent-Based Siting of Geologic Repositories”—

11                         (1) to continue the work of the 2012 Blue Rib-  
12      bon Commission on America’s Nuclear Future,  
13      which found that consent was necessary to success-  
14      fully arrive at permanent disposal sites for nuclear  
15      waste; and

16                         (2) to analyze the implications of amending the  
17      Atomic Energy Act of 1954 (42 U.S.C. 2011 et  
18      seq.) to remove exemptions from environmental laws  
19      for spent nuclear fuel from commercial reactors and  
20      high-level radioactive waste from defense and com-  
21      mercial origins in order to create a consent-driven  
22      pathway to addressing the disposal challenges of  
23      commercial and defense nuclear waste.

24                         (c) MEMBERSHIP.—

1                         (1) IN GENERAL.—The Task Force shall in-  
2                         clude a balanced representation of—

- 3                             (A) Federal, State, Tribal, and local gov-  
4                         ernment agencies;  
5                             (B) nongovernmental organizations;  
6                             (C) unions; and  
7                             (D) the private sector.

8                         (2) MEMBERS.—

9                             (A) IN GENERAL.—The Task Force shall  
10                         be composed of not more than 30 members who  
11                         represent entities that—

- 12                                 (i) are currently affected by the stor-  
13                         age, treatment, or management of commer-  
14                         cial or defense nuclear waste; or  
15                                 (ii) have cognizable and well-under-  
16                         stood interests in the objectives of the  
17                         Task Force.

18                             (B) FEDERAL MEMBERS.—Not more than  
19                         5 members of the Task Force shall be rep-  
20                         resentatives of the Federal Government, of  
21                         whom—

- 22                                 (i) 1 shall be appointed by the Admin-  
23                         istrator of the Environmental Protection  
24                         Agency to represent the Environmental  
25                         Protection Agency;

1                         (ii) 1 shall be appointed by the Sec-  
2                         retary of Energy to represent the Depart-  
3                         ment of Energy;

4                         (iii) 1 shall be appointed by the Nu-  
5                         clear Regulatory Commission to represent  
6                         the Nuclear Regulatory Commission;

7                         (iv) 1 shall be appointed by the Direc-  
8                         tor of the White House Office of Science  
9                         and Technology Policy to represent the  
10                         White House Office of Science and Tech-  
11                         nology Policy; and

12                         (v) 1 shall be appointed by the Sec-  
13                         retary of Transportation to represent the  
14                         Department of Transportation.

15                         (C) NON-FEDERAL MEMBERS.—

16                         (i) IN GENERAL.—Except as provided  
17                         in clause (ii), the EPA representative shall  
18                         appoint the non-Federal members of the  
19                         Task Force.

20                         (ii) STATE GOVERNMENT REPRESEN-  
21                         TIVES.—

22                         (I) IN GENERAL.—The EPA rep-  
23                         resentative shall select not fewer than  
24                         7 States, representing a geographical  
25                         balance from across the United

1 States, the governments of which shall  
2 be represented on the Task Force.

3 (II) APPOINTMENT.—The Governor  
4 of a State selected under sub-  
5 clause (I), or an appropriate agency of  
6 the State, such as a State department  
7 of ecology or State environment de-  
8 partment, if the Governor determines  
9 it to be appropriate, shall appoint the  
10 representative of the State govern-  
11 ment who shall serve on the Task  
12 Force.

13 (iii) OTHER NON-FEDERAL MEM-  
14 BERS.—

15 (I) GEOGRAPHIC AND HISTOR-  
16 ICAL BALANCE.—In selecting the non-  
17 Federal members of the Task Force,  
18 the EPA representative shall ensure—

19 (aa) a geographical balance  
20 among the non-Federal members  
21 from across the United States;  
22 and

23 (bb) a balance of historical  
24 concerns with respect to nuclear  
25 waste.

(cc) regional environmental justice groups;

12 (dd) industry;

13 (ee) labor organizations;

14 (ff) professional societies;

15 and

(gg) safety- and health-related organizations.

23 (3) COMPENSATION; EXPENSES.—

1                             (B) EXPENSES.—A member of the Task  
2                             Force shall receive reimbursement from the Ad-  
3                             ministrator of the Environmental Protection  
4                             Agency at the applicable Federal per diem rate  
5                             for all out-of-pocket expenses incurred in car-  
6                             rying out the duties of the Task Force.

7                             (d) GRANTS.—Subject to the approval of the Federal  
8                             members of the Task Force appointed under subsection  
9                             (c)(2)(B), the Chair of the Task Force may provide par-  
10                             ticipation grants to task force members from underre-  
11                             sourced communities, environmental justice communities,  
12                             or nonprofit organizations that are located in environ-  
13                             mental justice communities and represent and work on be-  
14                             half of environmental justice communities with respect to  
15                             issues relating to the storage and disposal of spent nuclear  
16                             fuel and high-level radioactive waste.

17                             (e) DUTIES.—

18                             (1) REPORT.—Not later than 1 year after the  
19                             date of enactment of this Act, the Task Force shall  
20                             submit to Congress and the President a report, in  
21                             unclassified form, that—

22                             (A)(i) provides a clear explanation of what  
23                             constitutes “consent-based siting”; and

1                         (ii) includes recommendations on how con-  
2                         sent-based siting could be practically imple-  
3                         mented;

4                         (B) describes and evaluates, taking into  
5                         consideration the consent-based siting rec-  
6                         ommendations of the 2012 Blue Ribbon Com-  
7                         mission for America's Nuclear Future—

8                         (i) the implications of amending the  
9                         Atomic Energy Act of 1954 (42 U.S.C.  
10                         2011 et seq.) to remove exemptions from  
11                         environmental laws, such as the Solid  
12                         Waste Disposal Act (42 U.S.C. 6901 et  
13                         seq.) (commonly known as the "Resource  
14                         Conservation and Recovery Act of 1976"),  
15                         for spent nuclear fuel and high-level radio-  
16                         active waste, while maintaining Federal  
17                         minimum standards;

18                         (ii) the likely allocations of precise  
19                         regulatory responsibilities under any  
20                         amendment to the Atomic Energy Act of  
21                         1954 (42 U.S.C. 2011 et seq.) described  
22                         and evaluated under clause (i); and

23                         (iii) the timeframe necessary for de-  
24                         veloping regulations in accordance with  
25                         clause (ii) and subparagraph (C); and

1                   (C) includes recommendations for appropriate legislative and regulatory changes based  
2                   on the matters described and evaluated under  
3                   subparagraph (B).

5                   (2) NOTICE AND COMMENT.—

6                   (A) IN GENERAL.—In preparing the report  
7                   under paragraph (1), the Task Force shall provide public notice and an opportunity for comment on the matters described in paragraph  
8                   (1).

11                  (B) REQUIREMENT.—To ensure sufficient opportunity for timely public input on the matters described in paragraph (1), the Task Force shall provide not fewer than 3 opportunities for public comment under subparagraph (A), including—

- 17                   (i) 1 opportunity on the East Coast;
- 18                   (ii) 1 opportunity on the West Coast;
- 19                   and
- 20                   (iii) 1 opportunity in the middle region of the United States.

